

Attorneys General of the States of California, Arizona, Connecticut, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, and Vermont, the Commissioner of the New Jersey Department of Environmental Protection, the Secretary of the New Mexico Environment Department, the Secretary of the Commonwealth of Pennsylvania Department of Environmental Protection, the Director of the District of Columbia Department of the Environment, and the Corporation Counsel of the City of New York

July 1, 2008

The Honorable Nicole R. Nason
Administrator
National Highway Traffic Safety Administration
U.S. Department of Transportation
West Building
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Notice of Proposed Rulemaking (NPRM) for Average Fuel Economy Standards,
Passenger Cars and Light Trucks; Model Years 2011–2015
[Docket No. NHTSA-2008-0089]

Comments Regarding CAFE Standard-Setting

Dear Administrator Nason:

We are pleased to submit these comments of the Attorneys General of the States of California, Arizona, Connecticut, Illinois, Iowa, Maryland, Massachusetts, New Jersey, New Mexico, Oregon, and Vermont, the Commissioner of the New Jersey Department of Environmental Protection, the Secretary of the New Mexico Environment Department, the Secretary of the Commonwealth of Pennsylvania Department of Environmental Protection, the Director of the District of Columbia Department of the Environment, and the Corporation Counsel of the City of New York regarding the corporate average fuel economy (CAFE) standards proposed by the National Highway Traffic Safety Administration (NHTSA) for passenger cars and light trucks for model years 2011 through 2015. *See* 73 Fed. Reg. 24,352 (May 2, 2008).

We commend the agency's efforts to comply with the congressional mandate of the Energy Independence and Security Act of 2007 (EISA). If the goal of maximizing energy conservation can be fulfilled, the federal government will have taken concrete steps to reduce oil dependence on foreign nations, lower gasoline prices, and address global warming. NHTSA's proposal takes steps in that direction. We are pleased that the agency has issued a draft environmental impact statement for public review and comment. And we are gratified that the agency is not just mechanically marching towards meeting the absolute floor established by Congress of 35 miles per gallon in model year 2020. In its proposal, NHTSA appears in large

part to be using the most reliable information available to date on the costs and benefits of particular vehicle technologies. All of these are positive steps.

We believe, however, that there is room for significant improvement of these rules. The purpose of these comments is to raise several important fuel economy issues that we hope NHTSA is open to reviewing and improving.¹ Given the significance of this rulemaking, it is important that the agency give serious consideration to the issues and develop a final rule that both maximizes the energy conservation purpose of EISA and is based on scientifically defensible inputs and analysis. The agency proposal does not do so yet.

The issues discussed below are: (1) the choice of maximizing the quantifiable net economic benefits, instead of maximizing energy conservation, as a goal for these regulations; (2) the need to complete a legally adequate environmental impact statement; (3) the critical need for NHTSA to update the baseline it uses for its analysis; (4) the out-of-date and underestimated forecast of gasoline prices; (5) the use of a 7% discount rate; (6) the failure to consider Clean Air Act emission standards; (7) the failure to consider a backstop for all vehicle categories; (8) the underestimate of the global warming benefits of these regulations; and (9) the failure to give any estimate of the military security and Strategic Petroleum Reserve benefits of these regulations.

Setting a Goal

The agency acknowledges that the Energy Policy and Conservation Act (EPCA) and EISA's "overarching purpose" and "overall goal" are "energy conservation." 73 Fed. Reg. at 24,451-1, 24,456-1. As the agency says, "The need to conserve energy is, from several different standpoints, *more crucial today*" than when the statute was originally enacted. *Id.* at 24,454-3 (emphasis added).

NHTSA, of course, has some discretion to set these fuel economy standards based on the statutory factors of "technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy." 49 U.S.C. § 32902(f). However, as the Ninth Circuit explained, this discretion exists only "so long as NHTSA's balancing does not undermine the fundamental purpose of the EPCA: energy conservation." *Center for Biological Diversity v. NHTSA*, 508 F.3d 508, 527 (9th Cir. 2007). As NHTSA itself understands, the Ninth Circuit "raised the possibility of tilting the balance more toward reducing energy consumption and CO₂." 73 Fed. Reg. at 24,465 n.228.

In its proposal, NHTSA proposes to set the standards at a level where the net economic

1. We are separately commenting on the issue of preemption, which is a legal issue irrelevant to the setting of these standards.

benefit it has calculated is maximized. But maximizing economic benefit is not the goal of the statute. It is not, for example, a law the purpose of which is to protect the status quo in the automobile industry. Rather, it is an energy conservation statute, designed to decrease oil dependence with technology-forcing regulations set at the maximum level possible without causing substantial adverse consequences. As the courts have determined, Congress has already made the judgment that energy conservation is the highest priority among the factors for NHTSA to balance. *Center for Biological Diversity*, 508 F.3d at 527-28 (discussing *Center for Auto Safety v. NHTSA*, 793 F.2d 1322 (D.C. Cir. 1986)). To achieve this goal, NHTSA should set the standards at a level where the total costs equal total benefits.² From a societal point of view, there cannot be substantial adverse consequences if the costs do not outweigh the benefits. We urge NHTSA to set the standard at a level where total costs equal total benefits.

This is especially true given that not all of the benefits of energy conservation are quantifiable. Higher fuel economy, while separate from the federal government's obligations under the Clean Air Act, *Massachusetts v. Environmental Protection Agency*, 127 S. Ct. 1438 (2007), will set our country on a course to address global warming, a phenomenon that threatens the country's environmental and economic well-being. Greater fuel economy will also help our country move away from the economic and political consequences of being dependent on oil-rich countries, as EPCA intends. Many of these benefits cannot be fully quantified through simple economic valuation. How does one value, for example, avoiding the forced relocation of Native American villages, the loss of hundreds of miles of coastline, or the extinction of polar bears? These unquantifiable benefits should tilt the scales towards more stringent standards.

Compliance with the National Environmental Policy Act

NHTSA appears to be moving towards completing an environmental impact statement (EIS), a necessary precondition to finalizing of these standards. Issuing final rules without a legally sufficient final EIS – and consideration of the information in that EIS – would be a violation of the National Environmental Policy Act (NEPA). *Center for Biological Diversity*, 508 F.3d at 553-58.

The purpose of NEPA is to provide additional information to the agency and the public to help inform the eventual decision. NHTSA has, just in the last couple of days, issued a draft EIS

2. NHTSA should also double-check its calculations. For example, some of the numbers in the text of pages 24,355 and 24,356 of the NPRM do not match the numbers in the footnotes on those pages. Also, if total costs equal total benefits, the net total benefits should be zero. Yet, on table X-3, on page 24,472 of the NPRM, the "TC = TB" line shows both positive and negative numbers (and does not total to zero). These errors do not appear to be insignificant. In light of the needed corrections and other changes, NHTSA should re-issue an updated and corrected notice of proposed rulemaking and re-open public comment.

for public comment that is over 400 pages. However, because the EIS analysis and the substantive analysis are linked, we assume that EIS analysis will inform the decision making of the agency. Otherwise, it has the appearance of simply being a rote exercise to justify the agency's proposal. Thus, we urge NHTSA to release an updated cost-benefit analysis (based on the analysis in the draft EIS, and perhaps on public comment to date) and re-open public comment in this docket.

Baseline

It is important that the agency's analysis starts with an accurate baseline (that is, the manufacturers' product mix, technology use, and fuel economy without these improved rules). Without an accurate baseline, the agency cannot accurately gauge the costs and benefits from this rule. NHTSA's analysis is based entirely on those costs and benefits.

As proposed, NHTSA's baseline is fundamentally based on product information provided by the manufacturers. However, with some limited exceptions, this information appears to assume a static automobile industry. According to the agency's baseline information, the fuel economy of many manufacturers is not expected to change *at all* between model year 2011 and model year 2015. NHTSA's Preliminary Regulatory Impact Analysis (PRIA) at VI-3, VI-13 (April 2008) (tables VI-1a and VI-2a). This is not reasonable.³ The automobile industry is changing constantly, introducing improved technology consistently. NHTSA needs to have a more realistic baseline.

It should come as no surprise to the agency that the baseline has changed dramatically in the last two years. The public and trade press is full of articles discussing the fact that buyers are now moving away from large cars and trucks in favor of more fuel efficient models. *See, e.g.*, Bill Vlasic & Nick Bunkley, *The Smaller the Better, Automakers are Finding*, N.Y. Times, June 20, 2008; Byron Pope & Diane Elnick, *U.S. Small-Car Demand Outpacing North American Capacity*, WardsAuto.com, June 12, 2008; Matthew Dolan & Jeff Bennett, *Ford Looks to Go Smaller Faster; Some Truck Factories May Make Cars Instead As Sense of Alarm Grows*, Wall Street Journal, June 12, 2008; Dale Buss & Michelle Krebs, *Big Three, Big Vehicles Taken to the Watershed in May*, Edmunds.com, June 3, 2008; Bill Vlasic, *As Gas Costs Soar, Buyers Flock to Small Cars*, N.Y. Times, May 2, 2008. General Motors's and Ford's chief executives

3. Assuming an out-of-date baseline is but one of many reasons why NHTSA should not give very much weight, if any, to the analysis provided by Sierra Research for the Alliance of Automobile Manufacturers in this docket. That analysis is based on a 2006 baseline which does not change. However, the federal judge presiding over a 16-day bench trial in Vermont found that these kinds of assumptions are unreliable. *See Green Mountain Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F.Supp.2d 295, 366-68 (D.Vt. 2007) (discussing testimony of Tom Austin).

are calling this change *permanent*. Nick Bunkley, Ford Delays New Pickup and Reduces Production, N.Y. Times, June 21, 2008; Bill Vlasic, G.M. Shifts Focus to Small Cars in Sign of Sport Utility Demise, N.Y. Times, June 4, 2008.

This is true as to particular technologies, as well. In the NPRM, however, the agency does not consider this changed baseline. It does not apply plug-in hybrids in its model at all despite the fact that General Motors and Toyota have recently stated that they will have a plug-in hybrid in 2010. Yuri Kageyama, Toyota Promises Plug-in Hybrid Vehicle in U.S., Japan and Europe by 2010, L.A. Times, June 11, 2008; Bill Vlasic, G.M. Closing 4 Plants in Shift From Trucks Toward Cars, N.Y. Times, June 4, 2008. Perhaps most egregious is that NHTSA does not start applying other hybrids (including the simple, low-cost integrated starter generator version) until 2014. 73 Fed. Reg. 24,381-1. The federal government's own fuel economy website, www.fueleconomy.gov, shows that hybrids have been on the road for almost ten years, there are several hybrid models on the road now (selling over 100,000 vehicles a year), and more are planned by manufacturers.

We understand that the agency has requested updated product information from manufacturers, 73 Fed. Reg. 24,190 (May 2, 2008), but it is essential that the agency update its baseline, regardless of whether the manufacturers provide this information. Failure to provide such an update calls into question NHTSA's entire analysis.

It is also essential that the agency provide transparency in its analysis so that members of the public can review and comment on the agency's baseline. We understand that there may be some confidential business information used in calculating the baseline, but the agency should provide sufficient summaries or aggregations of this information or make special arrangements so that interested parties such as the state Attorneys General can view this confidential information under a confidentiality agreement.

Gasoline Prices

NHTSA acknowledges that a significant factor in the agency's analysis of maximum fuel economy is the price of gasoline. 73 Fed. Reg. at 24,476-1; *see also* PRIA at IX-12 (table IX-5a). As such, it is important that future gasoline price estimates be the best available estimates. NHTSA used gasoline prices of between \$2.25 and \$2.51 per gallon, depending on the future year. PRIA at VIII-20 (table VIII-3). This is startling, given that in June 2008 the national average price for gasoline reached \$4.13 per gallon. *See* Energy Information Administration, Weekly Retail Gasoline and Diesel Prices (downloaded June 25, 2008 and enclosed). Unless NHTSA can provide publicly-available, mainstream documentation supporting an almost fifty percent drop from current prices, it must substantially re-calibrate those estimates.

While we recognize that NHTSA relied on gasoline price projections from its sister agency, the Energy Information Administration (EIA), NHTSA acknowledges that EIA's

“reference case” has consistently underestimated gasoline prices in recent years. 73 Fed. Reg. at 24,405-06. In fact, NHTSA’s most recent estimate of gasoline prices appears to continue this trend, with even the “high price case” only reaching \$3.52 per gallon in 2030 and the reference case being much lower. See EIA, Annual Energy Outlook 2008 (June 2008) (table C5). Even EIA agrees that NHTSA should have not used its reference case for the analysis in this rulemaking, but instead should have used EIA’s high price case. On June 11, 2008, the Administrator of EIA testified before the U.S. House of Representatives’s Select Committee on Energy Independence and Global Warming. The Administrator testified unequivocally that NHTSA should use the high price case estimates for this rulemaking. EIA’s most recent high price case estimates – which, again, appear to be underestimates – range from \$2.87 per gallon in 2011 to \$3.52 per gallon in 2030. See Annual Energy Outlook 2008 (high price case table 12). If NHTSA insists on relying on EIA’s analysis, it must, at least, use the high price case.

NHTSA should also consult with EIA to obtain more up-to-date estimates before it finalizes these rules. EISA requires that NHTSA consult with the Department of Energy. 49 U.S.C. § 32902(i). The estimates NHTSA used in its proposal were released in March 2008, and obviously developed prior to that time. In March, EIA was projecting gasoline prices for 2008 to average \$3.26 and for 2009 to average \$3.11. EIA, Short-term Energy Outlook at table 2 (Mar. 11, 2008). EIA’s most recent estimates for these time periods are \$3.83 and \$3.97, respectively. EIA, Short-term Energy Outlook at table 2 (June 10, 2008). The facts prove that EIA was seriously incorrect in its estimates made in March, by as much as 86 cents per gallon (and perhaps more if EIA is incorrect that prices will come down over the next year-and-a-half). At the time NHTSA finalizes these rules, the agency should obtain from EIA a truly current projection for gasoline prices over the relevant period. Given the President’s executive order requiring coordination between federal agencies on issues relating to greenhouse gas emissions, 72 Fed. Reg. 27,717 (May 16, 2007), EIA should be able to provide relevant, up-to-date data directly to NHTSA specifically for the docket in this rulemaking. At a minimum, NHTSA should wait for EIA’s public, final 2008 estimates, which are scheduled to be released in December.

Discount Rate

Another significant driver in the agency’s analysis is the selection of a discount rate. The discount rate is used to adjust the future costs and benefits attributed to this regulation. NHTSA uses a 7% discount rate in its proposal. However, the agency appears to understand that there are flaws to this figure, for it explicitly requests comment on the *appropriateness* of using a lower discount rate. 73 Fed. Reg. at 24,416-2.

NHTSA uses an Office of Management and Budget (OMB) circular to guide its discount rate choice. 73 Fed. Reg. at 24,415-16 (referring to OMB, Circular A-4, “Regulatory Analysis,” Sept. 17, 2003). OMB recommends a 7% discount rate “‘whenever the main effect of a regulation is to displace or alter the use of capital in the private sector.’” 73 Fed. Reg. at 24,415-

3 (quoting Circular A-4 at 33). In contrast, OMB recommends a 3% discount rate when the regulation “primarily and directly affects private consumption.” 73 Fed. Reg. at 24,416-1 (referring to Circuit A-4). This lower 3% discount rate is “the rate at which *society* discounts future consumption.” 73 Fed. Reg. at 24,416-1 (emphasis added). NHTSA’s analysis looks at this cost-benefit analysis from a societal view. Thus, for example, fuel savings are calculated based on the entire life of a vehicle, not just the period considered by consumers at the purchase time. 73 Fed. Reg. at 24,405-1, 24,406-2. Also, costs are calculated using a retail price equivalent figure, which estimates the cost to consumers and thus takes into account more than just the manufacturers’ costs for technology improvements. 73 Fed. Reg. at 24,367-2. As NHTSA assumes in its analysis, the effect of these increased fuel economy standards will be increased use of technology, which will both increase the costs of new motor vehicles and decrease their operating costs (by increasing fuel economy). In its cost-benefit analysis, NHTSA assumes that the overall costs and benefits will be borne by private consumers, not manufacturers, because the costs will be passed on through higher vehicle purchase prices and the benefits will be less gasoline use, a better environment, and a more secure energy future. Thus, assuming that NHTSA is bound by the OMB circular, we believe it is only appropriate for NHTSA to use a discount rate appropriate for society-wide evaluation and for regulations that affect private consumption, such as a 3% discount rate, rather than one based on the cost of capital.

While NHTSA’s to-date cost benefit analysis does not place a high value on addressing global warming, the agency does tout those benefits as a primary reason for doing this rulemaking. Thus, the agency should take into account the discount rates that scholars and economists are using to evaluate the costs and benefits related to global warming. As an example, we are enclosing a presentation made by Professor Michael Hanemann of the University of California at Berkeley.⁴ As Prof. Hanemann relays, the discount rates used by the two most prominent competing economic evaluations of the costs of global warming are 4% and 1.4%. Thus, even the more conservative economist would not use a 7% discount rate.

We urge the agency to use a lower discount rate.

Consideration of Emission Standards

As the agency is aware, one of the statutory factors that it must consider is the “effect of other motor vehicle standards of the Government on fuel economy.” 49 U.S.C. § 32902(f). In previous rulemakings, NHTSA has consistently considered both federal Clean Air Act emission standards adopted by the U.S. Environmental Protection Agency (EPA) and California emission

4. This presentation was made on April 1, 2008, at the 9th Swiss Global Change Day conference, held in Bern. See <http://www.proclim.ch/Events/2008/9CHGCDay/9thSGCD.html>.

standards that have received a waiver of preemption from EPA pursuant to Clean Air Act section 209(b), 42 U.S.C. § 7543(b).

NHTSA's notice of proposed rulemaking does not analyze the effects of *any* federal or California emission standards. The omission of an analysis of California's zero emission vehicle (ZEV) standards is particularly noteworthy.⁵ EPA has granted a waiver for California's ZEV standards through model year 2011. 71 Fed. Reg. 78,190 (Dec. 28, 2006). A number of other States have adopted standards identical to these standards. Those standards are likely to increase the number of hybrids sold in our nation. The California Air Resources Board's 2004 estimate of the number of hybrids to be sold just in California in model year 2011 under the 2003 version of those regulations was 133,217 vehicles. *See* Air Resources Board, 2003 Amendments to the California Zero Emission Vehicle Program Regulations; Final Statement of Reasons at 38 (January 2004). The Board is in the process of adopting additional amendments to these regulations (which for model year 2011 would be within-the-scope of the existing Clean Air Act waiver), which would also likely increase the number of plug-in hybrids sold in these States; the Board's original estimate for model years 2009 through 2011 was 30,000 plug-in hybrids in California. Air Resources Board, Staff Report: Initial Statement of Reasons; 2008 Proposed Amendments to the California Zero Emission Vehicle Program Regulations at 29 (Feb. 8, 2008). Comparable increases will occur in the States that have adopted regulations identical to California's. But these regulations are also likely to spur increases in other States, simply because of the nationwide marketing of vehicles. NHTSA needs to take these technological advances into account.

Backstop

In *Center for Biological Diversity*, the Ninth Circuit ruled that NHTSA had been arbitrary and capricious in not considering a backstop to the footprint-based standards adopted for light trucks for model years 2009 through 2011. 508 F.3d at 537-39. Such a backstop

5. Potentially, there is also the issue of California's greenhouse gas emission standards. Because a waiver has not yet been granted for these emission standards, NHTSA need not consider these standards under 49 U.S.C. § 32902(f). However, should a waiver be granted in the future (*see California v. EPA*, Nos. 08-70011 & 08-70030 (9th Cir. filed Jan. 2, 2008) (challenging denial of waiver); *California v. EPA*, Nos. 08-1178, 08-1179 & 08-1180 (D.C. Cir. filed May 5, 2008) (same, protective filing)), NHTSA must then consider those emission standards in setting its fuel economy standards. NHTSA cannot rely on its position that California's standards are preempted, particularly since two federal courts have already ruled to the contrary. *See Central Valley Chrysler-Jeep, Inc. v. Goldstene*, 529 F.Supp.2d 1151 (E.D. Cal. 2007), *Green Mountain Chrysler Plymouth Dodge Jeep v. Crombie*, 508 F.Supp.2d 295 (D.Vt. 2007). Thus, California's standards will be enforced by California and other States should the district court decisions remain standing and a waiver be granted.

“would prevent manufacturers from upsizing their vehicles or producing too many large footprint vehicles, if the backstop were set high enough.” *Id.* at 537. The Court ruled that while nothing in the fuel economy statute required a backstop, NHTSA’s failure to consider one violated the requirement that NHTSA consider the four “maximum feasible” factors in setting fuel economy standards. *Id.* at 538.

NHTSA makes the same mistake here. The agency admits that it did not consider a backstop for light trucks and non-domestic passenger cars. *See* 73 Fed. Reg. at 24,447. NHTSA claims that it is barred from establishing a regulatory backstop because EISA requires attribute based standards and enacted a limited backstop just for domestic passenger cars. *Id.*

But Congress evidenced no such intent in the statute or the legislative history. Repeals by implication are disfavored, and must be based on clear evidence. *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 127 S. Ct. 2518, 2532 (2007). As the Supreme Court has said repeatedly: “We will not infer a statutory repeal unless the later statute expressly contradict[s] the original act or unless such a construction is absolutely necessary . . . in order that [the] words [of the later statute] shall have any meaning at all.” *Id.* (brackets and ellipses in original and internal quotation marks omitted) (quoting *Traynor v. Turnage*, 485 U.S. 535, 548 (1988), in turn quoting *Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 153 (1976), in turn quoting T. Sedgwick, *The Interpretation and Construction of Statutory and Constitutional Law* 98 (2d ed. 1874)). In EISA, Congress did not repeal – or even change – the definition of maximum feasible fuel economy. Based on that definition, NHTSA remains obligated to consider a backstop – as ordered by the Ninth Circuit. To do otherwise would be arbitrary and capricious.

The reasons for establishing a backstop still exist. There is still a risk that attribute-based standards will cause a “race to the bottom” by manufacturers. Thus, we urge the agency to consider and adopt an appropriate backstop for all vehicles.

Estimating the Benefits Regarding Global Warming

In assessing the benefits of addressing global warming, NHTSA assigned a value of \$7 for each metric ton of reduced carbon dioxide. 73 Fed. Reg. at 24,414-3. In choosing that number, NHTSA simply halved an estimate derived from a 2005 *Energy Policy* article by Prof. Richard S.J. Tol. *Id.* This is not a reasoned judgment. If the agency believes that estimates provided by Prof. Tol are the best available, it should use those, after providing a reasoned explanation for doing so. If the agency believes there is a better estimate, it should use that better estimate. It seems likely that there are better estimates, since Prof. Tol’s article is now three years old, and it itself explains in detail the many deficiencies in the economic literature at that time. Richard S.J. Tol, *The Marginal Damage Costs of Carbon Dioxide Emissions: an Assessment of the Uncertainties*, 33 *Energy Policy* 2064, 2065-67 (2005). NHTSA should consult with EPA on this issue, and conduct a review of the current scientific and economics literature.

Estimating the Benefits Regarding Energy Security

NHTSA assigned a value of *zero* to the government outlay aspect of energy security (increased military spending and purchases for the Strategic Petroleum Reserve). This finding is quite astounding because one of the primary purposes of EISA is to achieve energy security. The agency says that these costs are “unlikely to vary significantly in response to changes in the level of oil imports.” 73 Fed. Reg. at 24,411-2.

This is akin to what NHTSA did with the benefits to reducing global warming in *Center for Biological Diversity*, when it refused to assign a non-zero number to the benefits of reducing greenhouse gas emissions. *See* 508 F.3d at 531-35. In that case, the court held that the agency “cannot put a thumb on the scale by undervaluing the benefits and overvaluing the costs of more stringent standards.” *Id.* at 531. Uncertainty about a benefit’s value is not a valid reason to assign that value at zero. *Id.* at 533-35.

It is true that an increase in CAFE standards will not, in and of itself, eliminate these energy security costs. The same could be said as to global warming costs. It is also the case, however, that the impact of higher CAFE standards on energy security is not zero. Energy security costs are a necessary piece of the puzzle in assessing all of the costs and benefits of a CAFE standard. In fact, a recent peer-reviewed economic analysis did assign values to the military savings attributable to decreased oil imports. *See* Mark A. DeLucchi & James J. Murphy, US Military Expenditures to Protect the Use of Persian Gulf Oil Imports, 36 *Energy Policy* 2253 (2008) (assigning a cost of between \$0.03 and \$0.15 per gallon, and referencing earlier work on this issue).

We urge NHTSA to assign an economically sound number to all of the energy security costs.

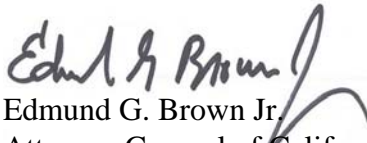
** ** *


At a time when Congress and the public are calling for reduced oil dependence, and with the enactment of EISA, NHTSA has a special opportunity. If the agency acts, as required by law, with energy conservation as its primary purpose, and with realistic assumptions about the costs and benefits of conservation, it can create a legacy that moves us in the right direction. Otherwise, the agency’s actions will be seen as simply as another vestige of a past, disgraced era of oil dependence.


We urge NHTSA to revisit these issues with an open mind, and to make the significant changes discussed above. Given the magnitude of the changes and additional analysis that is necessary, we also urge NHTSA to re-issue the notice of proposed rulemaking.


Thank you for the opportunity to comment on these proposed new fuel economy standards.


Sincerely,

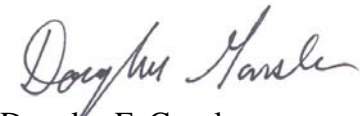

Edmund G. Brown Jr.
Attorney General of California

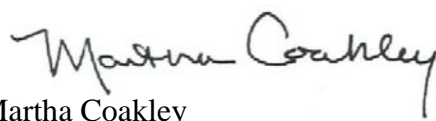

Terry Goddard
Attorney General of Arizona



Richard Blumenthal
Attorney General of Connecticut

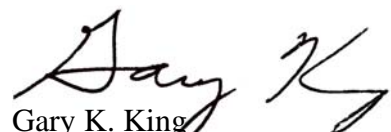

Lisa Madigan
Attorney General of Illinois



Tom Miller
Attorney General of Iowa



Douglas F. Gansler
Attorney General of Maryland

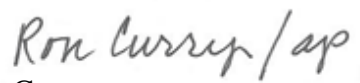

Martha Coakley
Attorney General Massachusetts


Anne Milgram
Attorney General of New Jersey


Gary K. King
Attorney General New Mexico


Hardy Myers
Attorney General of Oregon


William H. Sorrell
Attorney General of Vermont


Ron Curry
Secretary of the New Mexico Environment
Department

Comments Regarding CAFE Standard-Setting
July 1, 2008
Page 12



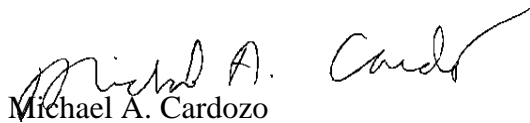
Lisa P. Jackson
Commissioner of the New Jersey
Department of Environmental Protection



Kathleen McGinty
Secretary of the Commonwealth of
Pennsylvania Department of Environmental
Protection



George S. Hawkins
Director of the District of Columbia
Department of the Environment



Michael A. Cardozo
Corporation Counsel of the City of New York

Enclosures

cc: Docket Management Facility